

MINUTES
First Meeting of the
Dental Auxiliaries' Technical Review Committee

September 11, 2014
2:00 p.m.
Lower Level Conference Room 'F'
The Nebraska State Office Building, Lincoln, NE

Members Present

Wayne Stuberger, Ph.D., P.T. (Chair)
Linda Black, R.T.
Edmund Bruening
Allison Dering-Anderson, PharmD, R.P.
Ryan McCreery, Ph.D.
Michael Millea, M.A.
Stephen Peters, B.A., M.A.

Members Absent

Staff Present

Matt Gelvin
Ron Briel
Marla Scheer

I. Call to Order, Roll Call, Approval of the Agenda, and Approval of the Method of Notification

Dr. Wayne Stuberger called the meeting to order at 2:00 p.m. The roll was called; a quorum was present. Dr. Stuberger welcomed all attendees and asked the committee members and program staff to introduce themselves. The agenda and Open Meetings Law were posted. The committee members approved the agenda unanimously by roll call vote. The committee members approved the following method for public notification of their meetings, unanimously, by roll call vote:

Agendas for these meetings are to be posted on the Credentialing Review component of the Department of Health and Human Services website which is http://dhhs.ne.gov/Pages/reg_admcr.aspx

Agendas for these meetings are also to be posted on the Licensure Unit bulletin board located on the third floor of the Nebraska State Office Building near the receptionists' area.

II. Discussion about Managing Two Proposals

The committee members discussed ideas for managing the work load associated with reviewing two competing proposals. Program staff presented ideas for a plan for reviewing these proposals to the committee members for their consideration. After some discussion the committee members indicated that they wanted to defer committing to a particular plan for managing the review until after having had a chance to listen to the presentations by applicant representatives and ask them some questions.

III. Discussion on the Issues

Presentations by Representatives of the Nebraska Dental Association (NDA) and the Nebraska Dental Assistants' Association (NDAA)

Representatives of the Nebraska Dental Association and the Nebraska Dental Assistants Association came forward to present their proposal. David O'Doherty presented comments on behalf of the Nebraska Dental Association. Mr. O'Doherty submitted a document describing the historical background of the issues under review. He then commented on the information provided in this document for the committee members. He informed the committee members that in 1985 the Board of Dentistry responded to a survey from the American Dental Association that requested that the Board describe which of the allowable duties of dental assistants and dental hygienists in Nebraska can be delegated by a dentist. The Health and Human Services Agency published a list of such duties on agency letterhead. The dental community considered this list to have the status of law regarding what a dentist could delegate to an auxiliary until 2005. In April of that year the Chief Medical Officer dismissed a petition against a dentist who was accused of violating the provisions of this list of duties on the grounds that the list in question was not defined in the rules and regulations regulating dentistry in Nebraska, and that it is not enforceable and is merely an opinion of the Board of Dentistry. Mr. O'Doherty stated that the impact of this ruling by the Chief Medical Officer was far reaching. After this ruling it was clear that the Board of Dentistry had no authority to enforce its judgments regarding what comprises appropriate duties for dental assistants, for example, or to define what comprises appropriate education and training for dental assistants, for example, in the absence of a licensure statute that would define the basic duties of this profession in law.

Mr. O'Doherty stated that since this ruling the Nebraska Dental Association has sought to work with the other affected professions in the dental community to update the dental statute to resolve these issues, and that the proposal before the committee from NDA and NDAA represents the latest attempt to accomplish this. He informed the committee members that this proposal is the one that emerged from a dental task force which originally consisted of representatives from all affected dental professions, minus dental extractions and unsupervised dental anesthesia for dental auxiliaries.

Cindy Cronick came forward to speak on behalf of the dental assistants. She informed the committee members that every applicant for licensure as a dental assistant would be required to take and pass an examination approved by the Board of Dentistry. She went on to state that there are two routes that a candidate can take to become eligible to take the licensure examination, and they are 1) successful completion and graduation from a training program for dental assistants approved by the Board of Dentistry, and 2) possess a high school diploma or its equivalent and have at least 1500 hours of work experience as a dental assistant. Ms. Cronick went on to state that there are four additional areas of competency available to those licensed dental assistants who satisfy the requirements for special permits in these respective areas of competency. These areas of competency are as follows: 1) fixed prosthodontics, 2) removable prosthodontics, 3) fit and cement crowns as part of pediatric care, and 4) monitor and titrate nitrous oxide.

Ms. Cronick then commented on the expanded functions available to those dental assistants who satisfy additional education and training standards. She stated that these include additional functions in fixed prosthodontics and dental restorations with additional permit requirements in each category. Ms. Cronick commented that not all the functions of dental assisting require licensure, and that is why the proposal does not require licensure for all dental assistants or all dental assistant functions.

Questions for NDA and NDAA Representatives by the Committee Members

Mr. Peters asked whether the proposed standards of training for the new proposed licensure categories would satisfy national accreditation standards. Ms. Cronick indicated that they would satisfy national accreditation standards. Dr. Dering-Anderson asked the applicants whether there are training programs in Nebraska for those seeking to become licensed as dental auxiliaries. Ms. Cronick responded by identifying schools in our state that provide the education and training necessary for these prospective licensees. Dr. Stuberg asked whether the training courses would be Board approved. Ms. Cronick responded in the affirmative. Ms. Black asked if there would be opportunities to take at least some of this training on line, and, if so, whether those living in remote rural areas would have access to such training opportunities. Crystal Stuhr responded on behalf of the applicants. She stated that Southeast Community College has all of the necessary course work on line. Ms. Stuhr added that the applicants are looking for guidance from other states that have passed similar proposals. Ms. Black asked what the duration of such courses might be. Ms. Cronick responded that such training typically takes two or three days per course, plus whatever amount of time is spent doing the on line components.

Dr. Stuberg asked the applicants how many states have passed similar proposals. Ms. Cronick responded that eighteen states have passed provisions pertinent to restorative functions that are similar to those requested in the proposal. She added that some other states have passed provisions pertinent to the nitrous oxide and the creation of impressions that are similar to those requested in the proposal.

Mr. Bruening asked the applicants how consumers would be able to identify and understand what skill sets a given dental auxiliary would possess under the terms of the proposal. He went on to ask how the public could be educated to know what practitioners would be qualified to provide a given function or service. Mr. O'Doherty responded that it would be the responsibility of the dentist to clarify which practitioners would be able to provide a given function or service. Mr. Bruening commented that his experience is that dentists get defensive when a patient asks questions about the qualifications of their staff. Ms. Cronick commented that a dental patient could go on line and do a licensure 'look up' to find out what a given provider is qualified to do. Mr. Bruening responded that it is unlikely that the typical dental patient is going to do that. Mr. O'Doherty commented that their proposal would benefit the consumer by improving access to care in remote rural areas of Nebraska.

Ms. Black asked the applicants who can sit for the 'DANB' examination. Ms. Cronick responded that those dental assistants who have completed 3500 clinical hours including 1500 didactic hours would qualify to take the 'DANB' examination. Ms. Black asked

whether the training would be online, and if so, would rural dental assistants be able to access it? Ms. Stuhr commented that dental assistants would always practice under the supervision of a dentist and that this provides an additional source of public protection.

Presentations by Representatives of the Nebraska Dental Hygienists' Association (NDHA)

Deb Schardt, R.D.H., came forward to present the NDHA proposal. Ms. Schardt stated that the number of dentists is declining in Nebraska and that there is a need to make better use of the services of dental auxiliaries to fill the gap in services, especially in remote rural areas of Nebraska. Ms. Schardt stated that the two proposals differ regarding levels of supervision that are necessary to protect the public. She said that the two proposals also differ regarding specific functions and services that are to be provided by dental auxiliaries. She provided the committee members with a document that describes these differences, but which also describes areas of agreement as well. Then she discussed this document with the committee members as it pertains to dental assistants, including the following provisions:

For Dental Assistants with on-the-job-training only:

- **Nebraska Dental Hygienists' Association (NDHA)** proposes the establishment of a minimum age requirement, Required CPR, and Direct supervision of a dental assistant who is monitoring nitrous oxide or sedation patients. NDHA also proposes that assistants take course similar to that required for hygienists for monitoring nitrous oxide. This would mean that the dentist would check this patient prior to dismissal to assure that they are recovered.
- **AGREE: NEW: place topical anesthetic under indirect supervision, with infection control training required.**
- **Nebraska Dental Association (NDA)** opposes a minimum age requirement and recommends CPR, if an assistant is to monitor nitrous oxide. NDA agrees that they should be CPR certified per requirements in the statute.

For Licensed Dental Assistants with formal training:

- **Nebraska Dental Hygienists' Association** proposes that the hours of experience consist of 3500 hours of chairside experience
- **Under *DIRECT* supervision Nebraska Dental Hygienists' Association** proposes that dental assistants be allowed to place dental sealants, fit and cement crowns on primary teeth, take final impressions/records for dental prosthesis (crowns, bridges, etc. with course)
- **AGREE: 19 yr. old, CPR certified, Current Dental Assisting National Board certification or equivalent board approved exam to include clinical competency and testing. Pass NE jurisprudence exam. Become licensed**

with Health and Human Services and complete Continuing Education per Uniform Credentialing Act.

- **Nebraska Dental Association** proposes that the procedure of placing pit and fissure sealants be removed from the entire proposal. That dental assistants are allowed to provide the following under **INDIRECT supervision**: Fit and cement crowns on primary teeth, take final impressions/records (including digital) for dental prostheses (crowns, bridges, etc.) and **Administer and adjust nitrous oxide per dentist order. (This is the same that is being requested for licensed dental hygienists and under the same supervision level).**

For Dental Hygienists, all of whom have formal training:

- **Nebraska Dental Hygienists' Association** proposes that orofacialmyology be included in dental hygiene scope of practice, as is presently being permitted by the Board of Dentistry but should be expressed in statute.
 - Provide a dental hygiene diagnosis. (needed to determine dental hygiene treatment plan). Hygienists already do this and is part of their accredited educational requirements. Upon completion of a required training course, extract teeth with a class IV mobility and hopeless prognosis.
 - Upon completion of an appropriate training course, provide Enameloplasty sealant technique.
- **Under GENERAL supervision**: Administer local anesthesia and reversal agents.
 - Take final impressions (this is allowed for the proposed licensed dental assistant)
- **AGREE: Under INDIRECT supervision, administer nitrous oxide (already being taught in dental hygiene programs.)**
 - **Under General supervision: Place Interim Therapeutic Restorations (with course), write prescriptions for mouth rinses and other topical products as well as fluoride products that help decrease one's risk for tooth decay (with course)**

For Public Health Dental Hygienists:

- **Nebraska Dental Hygienists' Association** proposes the full scope of dental hygiene scope of practice with the additions that are listed above.
 - Adjust removable appliances/soft reline **(with course)** to enable hygienists to help those without a dental home to be able to carry on the activities of daily living.
 - With an appropriate training course, provide Palliative care to include smoothing of a rough edge of a tooth.

For Expanded Function Dental Hygienists:

- **Nebraska Dental Hygienists' Association** supports **Under General Supervision:** current scope of practice of a licensed dental hygienist and public health permit hygienist. **ALSO:** Place and finish dental restorations and preparation of a class I and class V restoration per dentist order. **Must be a licensed registered Dental Hygienist and have (additional coursework required that would include completion of course with didactic and clinical components taught by an accredited dental school or has completed equivalent exam from another state). Pass board approved exam, proof of liability insurance, and licensure for expanded function.** Nebraska Dental Hygienists' Association supports the same clinical competency for dentists, hygienists and assistants that are doing the same procedures. This educational requirement needs to be outlined in statute to protect the public.

For Expanded Function Dental Assistant:

- **Nebraska Dental Association** proposes **Under Indirect supervision:** a dental assistants with 1500 hours as a licensed dental assistant who has completed a Dental Assisting National Board Expanded Function Dental Assistant exam **OR** a board approved exam. Obtain Expanded Function Dental Assistant license from Health and Human Services and complete Continuing Education per Uniform Credentialing Act. Duties: Place and finish dental restorations (fillings, crowns, etc.)

Questions for NDHA representatives by the Committee Members

Dr. Stuberger asked Ms. Schardt to comment on the dental sealant issue. Ms. Schardt commented that the removal of the dental sealant provisions for dental hygienists from the original draft omnibus proposal has been the principal motivating factor for NDHA creating its own proposal. NDHA wants these provisions restored along with more stringent oversight requirements for those dental assistants who would be providing these services. Ms. Schardt went on to state that the provisions on dental sealants in the current NDA / NDAA proposal does not provide adequate oversight to ensure protection for the public.

Dr. Stuberger asked Ms. Schardt to comment on the idea of dental hygiene diagnosis in the NDHA proposal. Ms. Schardt commented that the term 'diagnosis' is narrowly defined in the proposal and focused exclusively on what dental hygienists do.

Dr. Dering-Anderson asked Ms. Schardt if there are any other concerns which motivated NDHA to submit their own proposal. Ms. Schardt responded that the NDA / NDAA proposal would allow 'OJT' trained dental assistants with 'CPR' training to monitor nitrous oxide administration without any formal education and training. NDHA does not consider

this to constitute adequate protection for the public.

Comment was made by program staff that provisions in these proposals that require membership in, or certification by, a private certifying body as prerequisites for licensure is contrary to long-standing public policy in Nebraska vis-à-vis state credentialing which holds that such provisions would force the State to endorse the standards of organizations over which it (the State) has no control.

General discussion following the group presentations

Dr. Dering-Anderson asked NDA representatives what provisions of the NDHA proposal are unacceptable to members of the dental profession. Dr. Scott Morrison, DDS, responded that there are 'deal breakers' in the NDHA proposal, including:

- Tooth extraction by dental hygienists, because this is an irreversible procedure
- The absence of provisions in it that define the creation of an appropriate career ladder for dental assistants
- Unsupervised dental anesthesia by dental hygienists, which can also have irreversible consequences
- Provisions pertinent to dental anesthesia (nitrous oxide) by dental assistants that are too restrictive
- Advanced dental sealant procedures by dental hygienists unsupported by adequate training and supervision

Dr. Dering-Anderson then asked the representatives of both groups to clarify what problem or problems their proposals are designed to solve. Comments received indicated that the current dental statute is very much in need of an update. Additionally, there is a need to define a career path for dental auxiliaries, and to improve the overall efficiency of dental services in Nebraska.

IV. Scheduling Additional Meetings

The following meeting dates and times were selected by the committee members:

- October 20, 2014, 9 a.m.
- November 13, 2014, 2 p.m.
- December 4, 2014, 2 p.m.

V. Public Comment

There were no public comments at this time.

VI. Other Business and Adjournment

There being no further business, the meeting was adjourned by acclamation at 4:50 p.m.